

## Message Text

LIMITED OFFICIAL USE

PAGE 01 LONDON 10248 121458Z

43

ACTION L-03

INFO OCT-01 EUR-25 ISO-00 SCA-01 JUSE-00 SSO-00 DRC-01

RSC-01 /032 W

----- 042754

O 121237Z AUG 74

FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 2959

LIMITED OFFICIAL USE LONDON 10248

E.O. 11652: N/A

TAGS: CPRS, PFOR, UK

SUBJECT: EXTRADITION: MERVYN HAROLD CROSS

REF: STATE 165305 ET AL

1. EMBASSY INFORMED TODAY BY ATTORNEY GRAUPNER THAT BRITISH HIGH COURT OF JUSTICE ON AUGUST 9 SERVED HIS FIRM WITH WRIT OF HABEAS CORPUS AND THAT HEARING SCHEDULED FOR AUGUST 28.

2. CROSS CHALLENGES VALIDITY OF BOW STREET MAGISTRATES' COURT DECISION ORDERING HIS EXTRADITION ON FOLLOWINGM GROUNDS RELATING LARGELY TO LEGALITY OF APPLICATION FOR EXTRADITION UNDER TERMS OF US-UK EXTRADITION TREATY;

I. IT IS HELD THAT THE SCHEDULE OF OFFENCES ANNEXED THERE TO WAS NO INDICATION TO SHOW WHETHER OR NOT THE OFFENCES LISTED REFER TO STATE OFFENCES OR TO FEDERAL OFFENCES.

II. ARTICLES 2& 9 SUPPORT THE SUBMISSION THAT THE AFORE-MENTIONED SCHEDULE RELATES TO FEDERAL LAW BUT CONFIRMATION MAY BE FOUND WITHIN THE TREATY OF EXTRADITION WITH PROTOCOL OF SIGNATURE, LONDON JUNE 2ND 1972.

III. WHERE IT MAY BE NOTED THAT INSTRUMENTS OF NOTIFICATION ARE NOT YET EXCHANGED, THERE IS NEED TO EXAMINE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LONDON 10248 121458Z

THIS TREATY IN ORDER TO INTERPRET THE TREATY OF 1935.

IV. ON NOTING PARAGRAPH 1 OF THE PROTOCOL OF SIGNATURE, IT IS SEEN THAT THE SCHEDULE OF OFFENCES THEREIN REFERS ONLY TO FEDERAL OFFENCES - BY VIRTUE OF THE QUALIFICATION IN SIMPLE TERMS, THAT PERSONS MAY ALSO BE EXTRADITED FOR OFFENCES TO WHICH THE TREATY RELATES IF THE INGREDIENTS OF THE OFFENCE INVOLVE A VIOLATION OF FEDERAL STATUTE.

V. ONE MUST RIGHTFULLY ACCEPT THEREFORE, THAT THERE IS NEED OF SUCH PROVISION ONLY IF THE SCHEDULE REFERS TO FEDERAL OFFENCES, WHEREBY SUCH PROVISIO EMBRACES STATE OFFENCES WHEREIN THE INGREDIENTS SHOW A BREACH OF FEDERAL STATUTE.

VI. IN THE EVENT OF THE SCHEDULE REFERRED TO STATE OFFENCES, SINCE IT LISTS EACH AS BEING EXTRADITABLE, THERE WOULD EXIST NO NEED TO FURTHER QUALIFY THE OFFENCE AS EXTRADITABLE IN THE LIGHT OF THEIR INGREDIENTS OVERLAPPING FEDERAL JURISDICTION.

VII. IT IS SUBMITTED WITH RESPECT THEREFORE, THAT THE SCHEDULE OF OFFENCES WITHIN THE TREATY MUST BE SEEN TO RELATE TO FEDERAL OFFENCES, TO WHICH MAY BE ADDED STATE OFFENCES OF IDENTICAL NATURE, BUT ONLY WHERE A FEDERAL STATUTE IS VIOLATED.

VIII. THE CHARGES BEFORE THE COURT ARE DESCRIBED AS STATE OFFENCES, WITHOUT VIOLATION OF FEDERAL STATUTE; SO THAT, UNDER THE PRESENT WORDING OF THE TREATY, IT IS NOT A VALID CHARGE UPON WHICH EXTRADITION MAY BE ORDERED, THEREFORE WOULD ASK THE COURT TO ORDER MY RELEASE.

IX. IT IS RESPECTFULLY SUBMITTED IN ADDITION TO THE FOREGOING, THAT BOTH CHARGES SHOULD BE DISMISSED ON GROUNDS THAT THE EVIDENCE PLACED BEFORE THE COURT WAS INADEQUATE AND INADMISSIBLE.

3. GRAUPNER URGENTLY REQUESTS DEPARTMENT'S OPINION "IN RESPECT TO THE INTERPRETATION OF THE EFFECT OF THE EXTRADITION TREATY AS ADVANCED IN CROSS'S AFFIDAVIT".  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 LONDON 10248 121458Z

4. COPY OF AFFIDAVIT BEING POUCHED BY AIR TODAY.SOHM

NOTE BY OC/T: STATE 165305 APPARENTLY INCORRECT.

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 12 AUG 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** CollinP0  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974LONDON10248  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D740220-0493  
**From:** LONDON  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1974/newtext/t19740855/aaaabvoa.tel  
**Line Count:** 111  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION L  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:**  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** STATE 165305 ET AL  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** CollinP0  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 25 JUN 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <25 JUN 2002 by boyleja>; APPROVED <26 FEB 2003 by CollinP0>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** EXTRADITION: MERVYN HAROLD CROSS  
**TAGS:** CPRS, UK  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005